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Summary record of the 2652nd meeting
Held at the Palais Wilson, Geneva, on Thursday, 9 August 2018, at 3 p.m.

Chair: Mr. Amir

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined twelfth and thirteenth periodic reports of Bosnia and Herzegovina (CERD/C/BIH/12-13 and CERD/C/BIH/Q/12-13)

1. *At the invitation of the Chair, the delegation of Bosnia and Herzegovina took places at the Committee table.*

2. **Ms. Duderija** (Bosnia and Herzegovina), introducing her country's combined twelfth and thirteenth periodic reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/BIH/12-13), said that in the period since the previous dialogue with the Committee progress had been made in several areas. For example, the Ombudsman for Human Rights of Bosnia and Herzegovina had been established and the Law on the Ombudsman for Human Rights had been revised to ensure the independence of that institution and enable its full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Amendments had been made to anti-discrimination legislation, expanding the prohibited grounds for discrimination and assigning the Ombudsman a central role in protecting citizens from discrimination. Efforts were being made to implement the judgment of the European Court of Human Rights in the case of *Sejdić and Finci v. Bosnia and Herzegovina*, with a view to ensuring that ethnic minorities — who were defined as "others" in the Constitution of Bosnia and Herzegovina — enjoyed the same rights and privileges as the country's constituent peoples of Bosniaks, Serbs and Croats. It was important to point out that the European Convention on Human Rights had been incorporated into the Constitution of Bosnia and Herzegovina, which was directly applicable in the courts, and that the principle of non-discrimination was also enshrined in that instrument.

3. To coincide with the Decade of Roma Inclusion 2005–2015, special attention had been paid to improving the situation of Roma persons. For instance, an action plan had been adopted to address issues relating to housing, employment and health care, which covered the period 2017 to 2020. Eliminating intolerance towards refugees and post-war returnees was a priority in Bosnia and Herzegovina. In that regard, steps were being taken to ensure that the rights of returnees to return to their homes and to resume a normal lifestyle were safeguarded. Achieving that aim would require long-term investment in order to repair and rebuild houses that had been destroyed as well as to provide for adequate infrastructure and basic services and ensure access to employment.

4. Bosnia and Herzegovina condemned any form of propaganda aimed at inciting hatred, intolerance or racial discrimination. Indeed, incitement to national or religious hatred had been criminalized in the country's different legal jurisdictions, including in Brčko District. The Communications Regulatory Agency was responsible for combating incitement to violence and hatred in the media and her country was committed to upholding the freedom of the press and the right to freedom of expression, while ensuring that any use of communications to incite hatred or violence was punished. In that connection, a report on freedom of speech and media freedom had been drafted; an action plan concerning the education of journalists and other media professionals — based on United Nations guidelines for national plans of action for human rights education — had been implemented; and a one-day training and awareness-raising seminar had been scheduled for September 2018 for persons working in media relations. Other initiatives aimed at strengthening dialogue and developing tolerance and understanding had included the establishment of a platform for peace and the adoption of a law on freedom of religion.

5. **Ms. Shepherd** (Country Rapporteur) said that the scars of war were still evident in Bosnia and Herzegovina, which consisted of two entities — the Federation of Bosnia and Herzegovina and the Republika Srpska — as well as Brčko District. Although the war had ended in 1995, the State party was still struggling to achieve true peace and reconciliation and foster greater social cohesion among its ethnic groups. Despite its best efforts, systemic inter-ethnic and ethno-religious discrimination persisted and the treatment of those referred

to by the State party as "others" — namely persons who were not members of the country's three "constituent peoples" of Bosniaks, Croats and Serbs — had hindered progress and impacted the quality of life of Roma, internally displaced persons, refugees, asylum seekers and post-war returnees. Indeed, according to a 2017 report of the European Commission against Racism and Intolerance, the State party remained a divided country in which political life was organized along ethnic lines and the political will to promote an integrated society remained largely absent. There were also reports that several important human-rights- and anti-discrimination-related initiatives had been put on hold owing to a lack of support from the Republika Srpska authorities. She therefore wished to know what specific steps the State party had taken to promote reconciliation, break down ethnic divisions, reduce inter-ethnic tensions and foster greater integration. She would also be interested to know what measures had been taken to ensure that the teaching of contemporary history was not based on ethnic bias.

6. Efforts had been made in a number of areas that deserved recognition, including the creation of the Ombudsman for Human Rights of Bosnia and Herzegovina, which was now fully operational, and the incorporation of the general principles of the Convention into anti-discrimination law. In particular, she welcomed the introduction of a law on asylum, which included the provision of guardians for unaccompanied asylum-seeking minors, although reports suggested that delays in appointing a guardian meant that the first stages of the asylum procedure were often conducted in their absence.

7. While the Committee welcomed the publication in 2015 of the results of the 2013 census, they did not include data disaggregated by ethnic group. The State party should provide reliable and up-to-date statistical data on the ethnic composition of the population, including on the Roma population, migrants, asylum seekers and refugees. It would also be helpful to receive socioeconomic data to allow the Committee to assess the level of enjoyment of economic, social and cultural rights by the different groups living Bosnia and Herzegovina.

8. The State party was also to be commended for having ratified several key international human rights treaties, including the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention against Discrimination in Education, and for having launched a programme to encourage women, older persons and ethnic minority groups to participate in elections. She hoped that similar initiatives would be undertaken in the future.

9. She had been pleased to learn that the State party had adopted an action plan in response to the European Commission 2015 progress report on Bosnia and Herzegovina and that the action plan recommended that the Institution of Human Rights Ombudsman of Bosnia and Herzegovina draft a special report on cases of threats against journalists. She asked whether that action plan and the action plan for the education of journalists and media professionals had been fully implemented and whether they had led to a reduction in the incidence of hate speech in the media and threats against journalists.

10. However, the Committee remained concerned that the State party had still not ratified the amendments to article 8 (6) of the Convention or made the voluntary declaration under article 14 recognizing the competence of the Committee to receive and consider individual complaints. Moreover, national minority groups, refugees, returnees and asylum seekers still appeared to suffer discrimination; the education system still appeared to be marred by ethnocentrism and political leaders seemingly lacked the political will to bring about societal transformation, while they had themselves been perpetrators of hate speech. She also understood that the provisions of the Law on Prohibition of Discrimination were rarely invoked by the courts and that awareness of the Law was limited among the general public, lawyers, judges, prosecutors and law enforcement officials.

11. Although article 145 (a) of the Criminal Code of Bosnia and Herzegovina outlawed incitement to racial hatred, discord and hostility, the provision still did not cover all the elements set out in the definition of racial discrimination contained in article 1 of the Convention. It was also unclear whether the Criminal Code explicitly prohibited the racist acts and organizations mentioned in article 4 of the Convention. The State party should take immediate steps to align article 145 (a) of the Criminal Code with article 1 of the

Convention and, if necessary, amend its Criminal Code to explicitly prohibit all the racist acts and activities enumerated in article 4 of the same instrument.

12. It was also her understanding that electoral laws continued to bar persons categorized as "Others" in the Constitution of Bosnia and Herzegovina from running for President and standing for election to the House of Peoples, thus preventing them from participating fully in the political and public life of the country. Indeed, both the Committee and the European Court of Justice, in the case of *Sejdić and Finci v. Bosnia and Herzegovina*, had recommended that the State party should introduce the necessary constitutional and legislative amendments to remedy that situation. While the State party's report indicated that amendments to the Constitution and the Election Law of Bosnia and Herzegovina were being drafted by working groups appointed by the Council of Ministers and the Parliamentary Assembly of Bosnia and Herzegovina, it did not specify a timeline for their adoption or whether the Constitutions and electoral laws of the Entities would also be amended. She would be grateful if the delegation could provide that information.

13. She would also like to hear more about the State party's efforts to address the hierarchy of ethnic groups which the European Court of Human Rights had found to discriminate against persons categorized by the Constitution as "Others" and the expected improvements in the situation of those persons falling under the Law on the Protection of National Minorities.

14. Despite the Committee's previous recommendation to the effect that the State party should enforce existing criminal legislation to counter hate speech and continue to conduct awareness-raising campaigns to promote national unity and the peaceful coexistence of different nationalities and religious groups, it appeared that hate speech was still rife in the media, political discourse, sports and publications. She asked what measures the State party had taken to combat the dissemination of propaganda inciting racial discrimination in education, the media and sport, and to guarantee legal protection for victims of such discrimination. She also wished to know how the State party assessed the effectiveness of those measures and the criminal legislation prohibiting incitement to national or religious hatred, and how many perpetrators of those offences had been prosecuted.

15. The lack of alignment between the citizenship legislation of the Entities and the Law on Citizenship of Bosnia and Herzegovina resulted in refugees and stateless persons having to meet different criteria for naturalization depending on their place of residence. Moreover, the legal grounds on which a person could be denied citizenship were vague and could lead to discriminatory treatment.

16. Despite the progress outlined in the State party's report, Roma were still the most discriminated against and marginalized population group in Bosnia and Herzegovina and continued to face serious problems in the areas of education, employment, housing and health care and to encounter obstacles to their full social integration. Although the Committee welcomed the adoption of the Action Plan for Roma 2017–2020 and the allocation of funding to improve their socioeconomic situation, it would be helpful to know whether Roma had been consulted prior to the funding having been allocated and whether it was in fact sufficient to meet their needs. The State party should also provide statistical data, disaggregated by sex, on the employment of Roma in the public and private sectors at both the State and Entity level, and describe the measures taken to improve their employability. The delegation might also comment on reports that some Roma were prevented from accessing public health insurance owing to a lack of identity documents or a registered place of residence. The State party needed to develop a more comprehensive and integrated strategy for improving the situation of Roma, which should include the allocation of adequate resources for the implementation of planned measures and projects. The progress achieved under such initiatives should also be measured.

17. The State party was to be commended for its efforts to facilitate the reintegration of returnees under the Revised Strategy for the Implementation of Annex 7 of the Dayton Agreement, which included several housing projects. She asked what obstacles had prevented the proposed number of housing units from being built and what progress had been made in fulfilling the objectives of the Revised Strategy as a whole. The lack of statistical data on returnees unquestionably impeded their effective reintegration, as the

State party would be unable to identify the most vulnerable members of that group and thus be unable to cater to their specific needs.

18. While the 2016 Law on Asylum of Bosnia and Herzegovina was generally in line with international law, it still contained some gaps in relation to asylum procedure, the use of immigration detention and reception conditions for asylum seekers. Although the Law enshrined the principle of non-refoulement, the language used was weaker than that of its predecessor. The State party should take steps to guarantee persons who may be in need of international protection equal and effective access to its national territory and to its asylum procedure, providing them with the necessary information on their rights and obligations and with free legal aid and interpretation services during the preliminary stages of the process.

19. The State party should also describe the steps taken to give effect to the Committee's previous recommendation that it should take the measures necessary to ensure that the system of "two schools under one roof" did not lead to segregation in education, and to increase the number of administratively and physically unified schools where pupils were taught together from the same curriculum. On the issue of teaching history in post-conflict situations, she recalled that a genuine knowledge of history could facilitate understanding, tolerance and trust between individuals. The State party should engage in an open dialogue on that issue and ensure that a balanced approach was taken to the teaching of history.

20. Recalling that the Global Alliance of National Human Rights Institutions had made a number of recommendations to help the Institution of Human Rights Ombudsman of Bosnia and Herzegovina maintain its category A status after having lost and regained it, she asked what progress the State party had made in acting upon them. The delegation should also explain how the State party planned to promote and celebrate the International Decade for People of African Descent and indicate whether it had adopted an action plan in that connection.

21. **Mr. Kut** said it was regrettable that the State party had failed to submit a follow-up report outlining its efforts to give effect to the recommendations contained in paragraphs 7, 9 and 12 of the Committee's previous concluding observations (CERD/C/BIH/CO/9-11) within one year of their publication. He asked whether the Institution of Human Rights Ombudsman of Bosnia and Herzegovina now had the resources necessary to carry out its mandate; whether the State party had assessed the impact of in-service training for legal professionals and, if so, what the outcome of the assessment was; and whether that training was provided on an ongoing basis. It would also be useful to hear more about the efforts made to enforce existing criminal provisions on hate speech and hate crimes, especially given the increase in racially motivated crimes against minority returnees.

22. **Ms. Ko** said that she was grateful for the updated information provided on the legal framework for investigating and prosecuting war crimes committed during armed conflicts in the former Yugoslavia in the 1990s. Although the International Tribunal for the Former Yugoslavia had completed its mandate, the prosecution of war crimes, crimes against humanity and genocide continued, with 10 cases having been referred to the judicial authorities of the State party. She would welcome additional information on the State party's approach to prosecuting those cases, the legal framework applicable and any cross-Entity prosecutorial mechanisms in place. The delegation might also elaborate on the national strategy for dealing with war crimes, indicating whether it referred to the racial discrimination that could be incited by identifying and prosecuting certain offenders. Achieving justice for all remained a major challenge in post-conflict societies, particularly in the case of Bosnia and Herzegovina, as evidenced by the criticism levelled at and the lack of acceptance in certain regions regarding some verdicts returned by the International Tribunal for the Former Yugoslavia. She asked what was being done at the national, regional and Entity level to forestall the potentially divisive effect of and the racial discrimination that could be sparked by the prosecution of international crimes.

23. **Ms. McDougall** asked whether the governance arrangements provided for in the Dayton Agreement had functioned well in practice and what steps the State party had taken

to implement the judgment handed down by the European Court of Justice in the case of *Sejdić and Finci v. Bosnia and Herzegovina*.

24. **Mr. Avtonomov** said that the new labour legislation introduced by the State party covered all the grounds of racial discrimination listed in article 1 of the Convention except ethnic origin, while similar legislation introduced in the Republika Srpska and the Brčko District covered all the grounds referred to in the International Labour Organization (ILO) Discrimination (Employment and Occupation) Convention, 1960 (No. 111). He would appreciate clarification of how that legislation tied in with the Law on Prohibition of Discrimination (Anti-discrimination Law) in order to ensure full protection for all, and information on its implementation in practice.

25. He would appreciate detailed information on the status and implementation of the current action plans and programmes to promote equal opportunities and equal treatment of Roma, and particularly Roma women, in employment and vocational training, and on the outcomes to date.

26. According to the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina, no regulations governing the collection of data on discrimination had yet been adopted, although the Ombudsman was negotiating with the Ministry of Human Rights and Refugees on the creation of a database on discrimination. He would welcome an update on the status of the relevant regulations and how data on discrimination was collected by the State party's ministries. He would also welcome information on any published cases of discrimination in employment in the State party.

27. Noting that human trafficking was a criminal offence under the Criminal Codes of all three administrative divisions of the State party, he requested information on the application of the relevant provisions in cases of trafficking. Noting also the introduction into the State party's legal order of the offences of transnational trafficking in persons, international procurement for the purposes of prostitution, and organized cross-border trafficking in persons, as well as provisions covering slavery, he asked the delegation to provide information on the implementation of the relevant provisions. He would like to know in particular about investigations conducted by the Agency for Information and Protection of Bosnia and Herzegovina (SIPA), including the number of indictments and convictions and the sentences handed down.

28. **Mr. Murillo Martínez** said that he would be interested to know whether or not there was a single nationality that applied to all citizens of the State party and, if not, whether the question of uniting all citizens in that way was a current topic of debate. Referring to the system of "two schools under one roof", he enquired whether there were still schools in the State party that did not operate using a single common language. He noted that the State party was taking action to provide training on discrimination issues for the judiciary and the police. He wondered whether any thought had been given to covering Internet propagation of racism in the training curriculum. He understood that regular reports on racism and racial discrimination were presented to the parliament, which was a welcome innovation. He would be interested to know how the two chambers reacted to such reports and what recommendations they made.

29. **Mr. Calí Tzay** requested information on complaints of racial discrimination brought before the Institution of the Ombudsman. He would like to know the number of cases, the outcome and whether any had been brought before the courts. In respect of court cases, he would be interested to know whether victims had legal representation over and above the support of the Ombudsman, what maximum sentences applied and what sentences were in fact handed down. He would appreciate information about the size of the prison population in the State party, and about the proportion of prisoners who belonged to minority groups.

30. According to the Ombudsman's parallel report to the Committee, discrimination tended to be under-reported, reflecting a lack of trust in institutions and fear of negative consequences. He would appreciate the delegation's comments. He had been struck by the fact that all minority communities had representation at the local level but that the Presidency of the State party was the preserve of Bosniaks, Croats and Serbs only. He would appreciate an explanation of that arrangement, which was clearly discriminatory.

31. The system of distinct educational provision for the various population groups had given way to a single curriculum designed to ensure similar treatment for all. Recently, however, a private school had asked the courts for permission to apply a special curriculum for one particular ethnic group. The Supreme Court had rejected the request but a local court had granted it. It was not easy to understand how it was possible for two courts to reach such different conclusions, and he would welcome an explanation of the inconsistency.

32. **Mr. Bossuyt** said that he would appreciate further explanation of the notion of citizenship in the State party. Noting that the State party's report mentioned the Law on Citizenship of Republika Srpska, he asked what the relationship was between citizenship in Republika Srpska and citizenship of the State party as a whole.

33. Referring to paragraph 15 of the report, he requested information on the context in which the denationalization bill had been drafted and asked what the status of the bill was. Referring to paragraph 21 of the report, he requested clarification of the reference to "refugees from Bosnia and Herzegovina" and the difference between those refugees and the internally displaced persons also referred to. Referring to paragraph 38 of the report, dealing with birth registration, he asked what was meant by "the number of children who are in the process of recording": he wondered whether registration was a lengthy procedure. Referring to paragraph 52 of the report, according to which education was administered by the Republika Srpska, the 10 cantons of the Federation of Bosnia and Herzegovina and the Brčko District, he asked whether that meant there were 12 separate education regimes and, if so, what the differences between them were. Lastly, he said that he was curious to know how the system of "two schools under one roof" worked, given that there were three ethnic groups, and whether the "two schools" in each case were defined by linguistic criteria.

The meeting was suspended at 4.50 p.m. and resumed at 5.15 p.m.

34. **Mr. Avtonomov** noted that, according to the latest report of the Group of Experts on Action against Trafficking in Human Beings (GRETA) on the State party's implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, over 80 per cent of the activities under the Strategy on Combating Trafficking in Human Beings in Bosnia and Herzegovina had achieved their expected results. The failure to achieve the remaining objectives was attributable, among other things, to a lack of political will and financial resources, the unstable political and economic situation and conflicts of jurisdiction. The evaluation of the implementation of the 2016–2019 Action Plan had been entrusted to a special monitoring team and he would appreciate information on progress in implementation of the new Action Plan.

35. He noted that identification of victims was regulated by the 2004 regulations on protection of foreign victims of trafficking and the 2007 regulations on the investigation of trafficking. He would be grateful for further information on any measures taken by the State party to ensure that the victims of human trafficking received adequate compensation, including information regarding any national institutions or laws that had been established for that purpose.

36. **Ms. Shepherd** said that it would be useful to receive further information on the steps that the State party planned to take to increase the autonomy of the Ombudsman for Human Rights and to provide it with the human and financial resources it required to fulfil its mandate. The reporting State should also indicate whether it had implemented the recommendations of the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions on how to reacquire an A status for the Ombudsman for Human Rights.

37. **Mr. Calí Tzay** said that it would be interesting to have a full account of the measures that the State party had taken to ensure that the children of low-income Roma families had access to education and that Roma who did not possess birth certificates or other identification documents had access to health care.

38. **Mr. Diaby** said that he would appreciate an update on the status of the State party's plans to provide decent housing options for members of the Roma community. He was also interested to know how non-governmental organizations had contributed to the preparation

of the State party's periodic report. Lastly, he would welcome further information on the State party's experience running its "two schools under one roof" system, with particular regard to whether the system had ever been found to give rise to discrimination, whether the Ombudsman for Human Rights had ever had to address a complaint of discrimination arising as a result of the system, and how the system had been evaluated since its introduction.

39. **Ms. Škuletić-Malagić** (Bosnia and Herzegovina) said that citizens who did not belong to one of the three constituent peoples of Bosnia and Herzegovina could not stand as candidates for election to the three-member Presidency. The role of the presiding officer of the Presidency rotated between the three members every eight months so as to ensure the equal representation of the three constituent peoples. The role was largely symbolic, however, as the Presidency's decisions were made by consensus.

40. **Ms. Đuderija** (Bosnia and Herzegovina) said that social reconciliation and political discussion between the various constituent entities remained problematic in Bosnia and Herzegovina. The Parliamentary Assembly worked to ensure the implementation of international anti-discrimination standards at the national level by passing laws such as the Law on Prohibition of Discrimination, but the alignment of anti-discrimination standards and legal practices across all three constituent entities remained a challenge. The provisions of international human rights conventions were interpreted directly by the highest courts, including the Constitutional Court, which were competent to hear complaints of discrimination against ethnic and other minorities. However, much work remained to be done to raise awareness of the International Convention on the Elimination of All Forms of Racial Discrimination among judicial and legal professionals and to ensure that its provisions were implemented in practice.

41. A draft law intended to improve the operational and financial situation of the Ombudsman for Human Rights had not received the support of the Parliamentary Assembly. As an alternative course of action, the Ministry for Human Rights and Refugees had prepared draft amendments to the existing Law on the Ombudsman for Human Rights intended to ensure that the institution met the standards set out in the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Council of Ministers had adopted the amendments, but the full support of the Parliamentary Assembly would be needed for them to pass into law.

42. At the executive level, the Ministry for Human Rights and Refugees was tasked with monitoring and collecting information on discrimination, preparing reports and drafting legislative proposals and policy action plans. The preparation of reports was made difficult by the need to coordinate the work of the relevant authorities across all constituent entities and cantons. For that reason, work had begun on a common database designed to collate information on cases of discrimination and the implementation of all relevant conventions. The database would be made accessible to all authorities throughout Bosnia and Herzegovina so that they could more easily identify and address cases of discrimination.

The meeting rose at 5.55 p.m.